

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                              |   |                   |
|------------------------------|---|-------------------|
| ROBERT T. MADEJ, and         | ) | CASE NO. 8:12CV88 |
| DIANE Y. MADEJ,              | ) |                   |
|                              | ) |                   |
| Plaintiffs,                  | ) |                   |
|                              | ) |                   |
| v.                           | ) | ORDER             |
|                              | ) |                   |
| BANK OF AMERICA, MORTGAGE    | ) |                   |
| ELECTRONIC REGISTRATION      | ) |                   |
| SYSTEMS, INC., RECONTRUST    | ) |                   |
| COMPANY, N.A., and DOES 1-10 | ) |                   |
| (INCLUSIVE),                 | ) |                   |
|                              | ) |                   |
| Defendants.                  | ) |                   |

This matter is before the Court on the Plaintiffs' Motion for Reconsideration (Filing No. 35). The Plaintiffs ask the Court to vacate the Memorandum and Order of March 12, 2013 (Filing No. 33), and Judgment (Filing No. 34), that granted the Defendants' Motion for Summary Judgment and resulted in a final judgment in favor of the Defendants. Plaintiffs' counsel states that he did not receive the Defendants' motion (Filing No. 30), brief (Filing No. 32), or index of evidence (Filing No. 31), because the documents went to his electronic junk mail file. He further asks that the Court grant him an extension of time to respond to the Defendants' Motion for Summary Judgment, as if that Motion had been filed on the date the Court enters its Order on the Plaintiffs' Motion for Reconsideration.

The record demonstrates that Plaintiffs' counsel was fully aware the Defendants would be filing a motion for summary judgment. (See Plaintiffs' counsel's letter to Magistrate Judge Gossett, dated October 16, 2012, at Filing Nos. 25 and 26.) Plaintiffs' counsel was also fully aware that the deadline for filing of such motions was January 30, 2013. (See Order Setting Final Schedule for Progression of Case, Filing No. 28.) The

Defendants' Motion for Summary Judgment, along with their brief and index of evidence, were filed on that day. (Filing Nos. 30, 31, 32.) Plaintiffs' counsel's failure to respond to the Motion was not excusable neglect under Fed. R. Civ. P. 60(b), and the Motion for Reconsideration, construed as a motion for relief from final judgment, is denied.

IT IS ORDERED:

The Plaintiffs' Motion for Reconsideration (Filing No. 35), construed as a motion for relief from final judgment, is denied.

DATED this 16<sup>th</sup> day of April, 2013.

BY THE COURT:

s/Laurie Smith Camp  
Chief United States District Judge